

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant,

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and Bernard L. Madoff,

Plaintiff,

v.

SOCIETE GENERALE PRIVATE BANKING  
(SUISSE) S.A. (*f/k/a* SG Private Banking Suisse  
S.A.), individually and as successor in interest to  
Societe Generale Private Banking (Lugano-  
Svizzera) S.A.; SOCGEN NOMINEES (UK)  
LIMITED; LYXOR ASSET MANAGEMENT  
INC. (*f/k/a* SG Asset Management, Inc.), as  
General Partner of SG AM AI Premium Fund  
L.P.; SG AUDACE ALTERNATIF (*f/k/a*  
SGAM AI Audace Alternatif), now acting by  
and through its manager, Lyxor Asset  
Management S.A.S.; SGAM AI EQUILIBRIUM  
FUND (*f/k/a* SGAM Alternative Diversified  
Fund), now acting by and through its liquidator,  
KPMG Advisory Sarl; LYXOR PREMIUM  
FUND (*f/k/a* SGAM Alternative Multi Manager  
Diversified Fund), now acting by and through its  
trustee, Societe Generale S.A.; SOCIETE  
GENERALE S.A., as Trustee for Lyxor

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation  
(Substantively Consolidated)

Adv. Pro. No. 12-01677 (CGM)

Premium Fund and Successor in Interest to  
Banque de Reescompte et de Placement a/k/a  
Barep and to Societe Generale Asset  
Management Banque d/b/a Barep; SOCIETE  
GENERALE LUXEMBOURG (f/k/a Societe  
Generale Bank & Trust S.A.); OFI MGA  
ALPHA PALMARES (f/k/a Oval Alpha  
Palmares); OVAL PALMARES EUROPLUS;  
and UMR SELECT ALTERNATIF;

Defendants.

**STIPULATION AND ORDER TO WAIVE ARGUMENT**

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III, and the Chapter 7 estate of Bernard L. Madoff, on the one hand, and defendants OFI MGA Alpha Palmares (f/k/a Oval Alpha Palmares); Oval Palmares Europlus; and UMR Select Alternatif (collectively, the “OFI Defendants,” and together with the Trustee, the “Parties”), on the other, by and through their respective, undersigned counsel, hereby stipulate and agree as follows:

**WHEREAS**, on April 29, 2022, the OFI Defendants filed a motion to dismiss the Trustee’s complaint (the “OFI Motion”), ECF No. 139, with supporting declarations and a memorandum of law, ECF Nos. 140-142; and on June 28, 2022, the Trustee filed a combined opposition to the OFI Motion and a separate motion filed by additional defendants, ECF No. 155, with supporting declarations, ECF Nos. 156-157;

**WHEREAS**, on, August 19, 2022, the Court issued an Order to Show Cause (the “Order”) directing, inter alia, that counsel for the OFI Defendants “appear *in person* at the hearing held before the Court on September 19, 2022 at 10:00 am at the United States

Bankruptcy Court located at 355 Main Street, Poughkeepsie N.Y. 12601” and that the OFI Motion “be adjourned to run with [the Order],” ECF No. 160;

**WHEREAS**, on August 26, 2022, the OFI Defendants filed a reply and supporting declaration in further support of the OFI Motion, ECF Nos. 168-169 (together with the OFI Motion and the Trustee’s opposition, the “Briefing”); and

**WHEREAS**, the Parties have met and conferred and have agreed to rest on their papers and waive oral argument on all aspects of the OFI Motion other than those related to the OFI Defendants’ status as *fonds commun de placement* (“FCPs”) under Article 214 of the French Monetary and Financial Code and the OFI Defendants’ argument that FCPs lack legal existence under French law and lack the capacity to be sued (the “FCP Issue”).

**IT IS HEREBY STIPULATED AND AGREED**, by the Parties, and **SO ORDERED**, by the Court:

- 1.) The Court will not hear oral argument on the Briefing, except as to the FCP Issue, either at the hearing scheduled for September 19, 2022, at 10:00 am on the Order, or on any later date when the Court would otherwise have scheduled argument on the OFI Motion.
- 2.) Other than as to the FCP Issue, the Parties request that the Court issue its ruling based on the Briefing.
- 3.) The Parties otherwise reserve all rights, arguments, objections and defenses they may have, and entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

*[Remainder of Page Intentionally Left Blank]*

Dated: New York, New York  
September 12, 2022

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*Special Counsel for Irving H. Picard, Trustee  
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of Bernard L. Madoff Investment Securities LLC and  
for the Chapter 7 Estate of Bernard L. Madoff*

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*Attorneys for OFI MGA Alpha Palmares, Oval  
Palmares Europlus, and UMR Select Alternatif*

**SO ORDERED.**

**Dated: September 16, 2022  
Poughkeepsie, New York**



**/s/ Cecelia G. Morris**

**Hon. Cecelia G. Morris  
U.S. Bankruptcy Judge**